

Date: October 1, 1991

REPLY TO
ATTN OF: CR-45

SUBJECT: Policy on Waiver of DOE's Added Factor and Depreciation

TO: Distribution

As you are aware, the Management Accounting and Pricing Division (MAPD) conducted a review of the legislation, regulations, policies, procedures, and practices relative to waiving the Departmental added factor and depreciation applied to prices of DOE materials and services sold to Federal and non-Federal entities.

As a result of this review, a proposed revision to Section 8, GENERAL PRICING POLICY, of DOE Order 2110.1A, PRICING OF DEPARTMENTAL MATERIALS AND SERVICES, was developed and provided to your respective offices on February 25, 1991, for comment. The comments received have been evaluated and appropriate changes made to the policy. The final policy is attached and shall serve as interim guidance, effective October 1, 1991, until formal changes to the order can be accomplished.

In accordance with the new policy, we have also revised the format for reporting exceptions to full cost recovery. Beginning October 1, 1991, all field elements shall use the attached new format to request and report exceptions to the new policy. Quarterly reports of exceptions granted using the new format should be forwarded to the Headquarters MAPD beginning with the quarter ending December 31, 1991.

If you have any questions concerning the new policy, please contact ~~George Burkett or Phylliss Williams on FTS 233-5986~~ Greg Dulovich on (301) 903-3538.

/S/

Elizabeth E. Smedley
Acting Chief Financial Officer

Attachments

Distribution:

Director, Financial Management Division, DOE Field Office, Albuquerque
Director, Financial Management Division, DOE Field Office, Chicago
Director, Finance Division, DOE Field Office, Idaho
Director, Financial Management Division, DOE Field Office, Nevada
Director, Finance Division, DOE Field Office, Oak Ridge
Director, Financial Resources Division, DOE Field Office, Richland
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Director, Office of Headquarters Accounting Operations, CR-50
Director, Finance Division, Pittsburgh Naval Reactors Office (thru NE-60)
Director, Finance Division, Schenectady Naval Reactors Office (thru NE-60)
Director, Finance and Budget Division, Morgantown Energy Technology Center (thru FE-1)
Director, Budget and Financial Management Division, Pittsburgh Energy Technology Center (thru FE-1)

INTERIM GUIDANCE PENDING REVISION OF DOE ORDER 2110.IA

8. GENERAL PRICING POLICY. The policy of the Department of Energy shall be to establish prices and charges for materials and services provided to non-Federal entities at the Department's full cost (defined in 6.f.) and to other Federal agencies (OFAS) at the Department's full cost less depreciation unless otherwise provided in this Order. Specific factors to consider in establishing prices and charges to non-Federal entities and to OFAs are delineated below.
- a. Non-Federal Entities. The price or charge for materials and services sold to non-Federal entities shall be the Department's full cost unless waiver of the Department's added factor and depreciation charges is granted under the provisions set forth in paragraph 8.c., below. Additionally, the following special provisions apply:
- (1) Prices and charges for by-product material sold pursuant to 42 U.S.C. 2111 and 2112, et seq., shall be at the Department's full cost, which has been determined to be reasonable compensation to the Department. Such prices shall neither discourage the use of the material nor research and development as mandated by the Atomic Energy Commission (AEC) Act. However, the Department may establish prices above full cost to preclude competing with private sources of supply.
 - (2) Prices and charges for the processing of source, byproduct, other material or special nuclear material and prices and charges for source or byproduct material sold pursuant to 42 U.S.C. 2201 shall be at the Department's full cost, which has been determined to be reasonable compensation to the Department. However, the Department may establish prices above full cost to preclude competing with private sources of supply.
- b. Other Federal Agencies (OFAs). The price or charge for materials and services sold to OFAs shall be the Department's full cost less depreciation (See Chapter V, Added Factor, to be published), except:
- (1) When the charges are to become part of the cost of a product or service to be provided by the OFA to a non-Federal entity, the full cost charged to the OFA shall include the non-Federal added factor rate and depreciation.
 - (2) When the material or service has a price established by DOE;
 - (3) DOE added factor may be waived in accordance with the limited provisions set forth in paragraph 8.c. below.
- c. Exceptions to General Pricing Policy. As a general rule, exceptions to the Department's pricing policy are limited to the waiver of Departmental added factor and depreciation. However, under extremely unique and rare conditions or

circumstances, the Chief Financial Officer may waive additional costs as deemed appropriate and approved by the Head of Field Element and the Program Secretarial Officer responsible for funding the costs that are waived. A waiver of Departmental added factor includes both components, i.e., the Departmental Overhead Rate and Field Office Overhead Rates, if applicable. The circumstances under which Departmental added factor and depreciation can be waived are set forth in paragraphs (1) and (2) below. Heads of Field Elements or designee may approve requests for waiver of Departmental added factor and depreciation for all materials and services provided by their offices in which the amount waived for a single customer (i.e., financing entity) totals \$500,000 or less within 1 fiscal year. Waiver requests in which added factor and depreciation exceed \$500,000 per customer within 1 fiscal year require Chief Financial Officer approval. The Chief Financial Officer shall approve requests for waiver of Departmental added factor and depreciation for all materials and services provided by Headquarters. To be eligible for waiver of added factor and depreciation, a specifically identified, currently funded DOE program must derive a direct benefit as a result of the work. This benefit must be either characterized by a concise description of the knowledge gained as a result of the work or demonstrated by a cost-benefit analysis. (Paragraph 10 contains procedures for requesting, documenting, and reporting exceptions.)

- (1) Pursuant to Office of Management and Budget (OMB) Circular A-25, the Departmental added factor and depreciation charges may be waived for non-Federal entities if one of the following conditions applies:
 - (a) The furnishing of the material or service is an appropriate courtesy to a foreign country or international organization, or comparable fees are set on a reciprocal basis with a foreign country; or
 - (b) The recipient of the material or service is a state or local government or a nonprofit organization.
- (2) Pursuant to 42 U.S.C. 2051 and 2053 of the AEC Act of 1954, prices and charges for research and development activities, studies, and training performed for non-Federal entities, and OFAs (other than cosponsored work discussed in paragraph 8.d.(1)) may be established to exclude the Departmental added factor and depreciation charges if a specifically identified, currently funded DOE program will derive a direct benefit either characterized by a concise description of the knowledge gained as a result of the work or demonstrated by a cost benefit analysis, and such activities relate to one of the categories listed below:
 - (a) nuclear processes;
 - (b) the theory and production of atomic energy, including processes, materials, and devices related to such production;

- (c) utilization of special nuclear material and radioactive material for medical, biological, agricultural, health, or military purposes;
 - (d) utilization of special nuclear material, atomic energy, and radioactive material and processes entailed in the utilization or production of atomic energy or such material for all other purposes, including industrial or commercial uses, the generation of usable energy, and the demonstration of advances in the commercial or industrial application of atomic energy;
 - (e) the protection of health and the promotion of safety during these research and production activities; or
 - (f) the preservation and enhancement of a viable environment by developing more efficient methods to meet the Nation's energy needs.
- d. Cosponsored Work and Technology Transfer Agreements. One of two methods for assessing the Departmental added factor and depreciation charges under cosponsored work and technology transfer agreements may be selected: (1) either the charges can be assessed and collected, or (2) the charges can be considered by the parties to the agreement as a part of the Department's contribution to the agreement. If the latter method is selected, additional requirements relative to each of these types of agreements follows:
 - (1) Cosponsored Work. In limited circumstances, the Chief Financial Officer may allow the Departmental added factor and depreciation charges (added factor only if OFA cosponsor) to be considered as a part of DOE's contribution to an arrangement in which DOE and one or more non-Federal entities or OFAs perform research, development, demonstration projects, and other work of an experimental nature for the mutual benefit of all parties. These arrangements are commonly called cosponsored, co-funded, joint, joint-funded, or cooperative (not assistance) work/efforts. For the Departmental added factor and depreciation charges to be considered part of DOE's contribution to such arrangements, a request must be submitted to the Chief Financial Officer demonstrating that all of the following criteria are met:
 - (a) The DOE portion of the joint work must be DOE's mission;
 - (b) DOE's portion of the work must be financed from appropriations specifically provided for this effort and delineated in the Congressional budget;
 - (c) A mutual benefit or common goal exists resulting in an overlapping mission between DOE and the other party to the effort;

- (d) DOE derives a significant cost benefit from the joint arrangement and, without the joint arrangement, would bear either a significant portion or all of the costs;
 - (e) The cost of the added factor and depreciation (added factor only if OFA cosponsor) contribution must not exceed DOE's direct funding of the project; and
 - (f) The added factor and depreciation contribution must be acknowledged as part of DOE's contribution and cited in the agreement.
- (2) Technology Transfer Agreements. Departmental added factor and depreciation charges may be considered part of DOE's contribution to agreements with state and local governments and the private sector pursuant to the National Competitiveness Technology Transfer Act of 1989. The cost of the added factor and depreciation contribution must be acknowledged as part of DOE's contribution and cited in the agreement. Chief Financial Officer approval is not required unless the contribution exceeds DOE's direct funding of the project.

EXCEPTION TO FULL COST RECOVERY

- [] Report of Exception Granted (check one):
____ Waiver of DOE Added Factor and/or Depreciation of \$500,00 or Less
____ Technology Transfer Agreement (DOE Contribution)
- [] Request for Exception (check one):
____ Waiver of DOE Added Factor and/or Depreciation of \$500,000 or Less
____ Waiver of DOE Added Factor and/or Depreciation Over \$500,000
____ Waiver of DOE Added Factor and/or Depreciation on Headquarters Materials and Services
____ Waiver of Other than DOE Added Factor and/or Depreciation
____ Cosponsored Work (DOE Contribution)
____ Technology Transfer Agreement (Contribution Exceeds Direct Funding)
1. Authority contained in DOE Order 2110.1A, Paragraph _____
 2. Project Title: _____
 3. Contract/Proposal/Agreement No.: _____
 4. Name of Customer/Cosponsor : _____
 5. DOE Facility Performing work : _____
 6. Cost Data:
 - a) Direct and Allocable Cost Excluding Depreciation \$ _____
 - b) Depreciation _____
 - c) DOE Added Factor _____
 - d) Full Cost _____
 - e) DOE Cost Waived or Contributed _____
 - f) Cost Charged _____
 7. Budget and Reporting (B&R) Classification Code and Title of Program Performing/Benefiting from Work: _____
 8. Concise description of work and justification prepared in accordance with specific requirements contained in paragraph cited in Line 1 above. Use separate sheet and attach cost-benefit analysis, if appropriate.
 9. For further information contact _____
Type Name and FTS Telephone #

10. Requesting Official Approval :

Name and Title	Signature	Date
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Field Chief Financial Officer Approval:

Name and Title	Signature	Date
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Head of Field Element Approval:

Name and Title	Signature	Date
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Program Secretarial Officer Approval (if required):

Name and Title	Signature	Date
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11. Departmental Chief Financial Officer Approval (if required by DOE Order 2110.1A)

Name and Title	Signature	Date
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